IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 26TH MARCH 2007 / 5TH CHAITHRA 1929

MFA.No. 537 of 2002()

OPMV.144/1999 of MOTOR ACCIDENT CLAIMS TRIBUNAL, OTTAPALAM
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APPELLANT: 2ND RESPONDENT:

UNITED INDIA INSURANCE CO.LTD.,
REPRESENTED BY IT'S DEPUTY MANAGER, THIRD PARTY
CLAIMS CELL, VETTUKATTIL BUILDING,M.G.ROAD,
KOCHI-16.

BY ADV. SRI.M.S.PATTALI
SRI.T.VINOD KUMAR

RESPONDENTS: PETITIONERS/1ST RESPONDENT:
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1. C.ABDU, CHOLAYIL HOUSE,
MUNDAKOTTUKURISSI P.O., SHORANUR, OTTAPALAM TALUK,
PALAKKAD DISTRICT.

2. KALATHIL KHADHEEJA, W/O.ABDU,
CHOLAYIL HOUSE, MUNDAKOTTUKURISSI P.O., SHORANUR,
OTTAPALAM TALUK, PALAKKAD DISTRICT.

3. K.ABOOBACKER SIDDIQUE, S/O.ALI HAJI,
KANDENGATTIL HOUSE, VALLAMPUZHA-679 336.

BY ADV. SRI.P.G.PARAMESWARA PANICKER
SRI.KRISHNA PRASAD. S
SRI.SANTHEEP ANKARATH
SRI.N.NANDAKUMARA MENON
SRI.JACOB MURICKAN
SRI.GEORGE CHERIAN
SRI.P.R.RAMACHANDRA MENON
SRI.A.A.MOHAMMED NAZIR
SRI.P.V.JYOTHI PRASAD
SRI.M.MATHEW JACOB

THIS MISC. FIRST APPEAL HAVING COME UP FOR ADMISSION ON 26/03/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP.NO.3200/2002 IN MFA.NO.537/2002

DISMISSED

26/3/2007 Sd/- P.R.RAMAN, JUDGE.

Sd/- ANTONY DOMINIC, JUDGE.

P.R.RAMAN & ANTONY DOMINIC,JJ.

M.F.A.NO.537 OF 2002

Dated this the 26th day of March, 2007

JUDGMENT

Raman,J.

This appeal arises out of the judgment in O.P.(MV).No.144/99 on the file of the M.A.C.T, Ottapalam. Appellant is the Insurance Company. By the award impugned in this appeal the Tribunal awarded an amount of Rs.1,74,500/- as total compensation, though the petitioners claimed an amount of Rs.1,50,000/- as compensation. Respondents herein, who are the claimants, are dependants of the deceased, who died in the accident. Even though this is an accident which arose out of the negligence of the deceased, the question that arises for consideration in this appeal is whether in such circumstances, the compensation as awarded is payable by the Insurance Company. The matter is squarely covered by a judgment of the Full Bench of this Court in M.F.A.No.696/97 and connected cases, wherein the Full Bench held that the compensation is awardable under Section 163-A. It was held that the claim under Section 163-A of the Motor Vehicles Act shall not be defeated by the Insurance Company on the ground that the death or permanent disablement has occurred due to the wrongful act, neglect or

default on the part of the deceased or the disabled person and the Insurance Company is statutorily obliged to discharge the liability under the structured formula as per Section 163-A of the Motor Vehicles Act. There is no dispute in this case that the compensation was awarded under the structured formula as per Section 163-A of the Act. Following the Full Bench decision, it has to be held that the claimants are entitled for the compensation as awarded by the Tribunal. We find no merit in this appeal. Accordingly it is dismissed.

P.R.RAMAN,
Judge.

ANTONY DOMINIC,
Judge.

kcv.

P.R.RAMAN, J.

M.F.A.NO.537 2002

JUDGMENT

26th March, 2007